

NOVEMBER 30, 2005

~~NOVEMBER 30, 2003~~

CONTRACT PERIOD THROUGH ~~NOVEMBER 30, 2002~~

TO: All Departments

FROM: Department of Materials Management

SUBJECT: Contract for **PUSH CART VENDING, COUNTY SPACE**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **NOVEMBER 15, 2000**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

Wes Baysinger, Director
Materials Management

SD/mm
Attach

Copy to: Clerk of the Board
Steve Varscak, Facilities Management
Carmen Ledesma, Materials Management

SPECIFICATIONS ON INVITATION FOR BID FOR: PUSH CART VENDING, COUNTY SPACE RENTAL

1.0 **INTENT:**

The intent of this Invitation For Bids is to solicit contractors to rent County exterior sidewalk space for the operation of a push cart vending concession at the downtown Superior Court Complex. This solicitation will be awarded in whole **or in part** to the most responsive/responsible bidder providing the best rent rate and deemed to be in the best interest of the County. The award of this bid will grant proprietary business rights of the successful bidder to conduct cart vending at the corner sites listed herein.

2.0 **TECHNICAL SPECIFICATIONS:**

2.1 Bidders must submit a copy of their Maricopa County Health Department permit.

2.2 The successful bidder must follow all current municipal requirements for street vending. This information is available through the City of Phoenix, City Clerk Department, Administrative Services Division. The requirements are summarized in pamphlet form entitled Street & Sidewalk Vendors. **The ordinances followed and enforced are that of Sidewalk Vendors as pertaining to this bid.**

2.3 The Superior Court Complex contains a restaurant of approximately 15,000 square feet. As such, City ordinances can exclude cart vending from City (sidewalk) property that surrounds the complex. County property is excluded from this ordinance.

2.3.1 The successful bidder shall have proprietary operational rights of the site seven (7) days per week twenty-four (24) hours per day. No other push cart vendor will be allowed on the campus. The successful bidder must provide the County a minimum of 5-days per week push-cart service (Monday through Friday) excluding County holidays, from 10:00 AM to 2:00 PM. These are minimums, more than minimum is discretionary to the successful bidder (i.e., earlier start time, later closing time, Saturday/Sunday work, special downtown events, etc.)

2.3.2 SUBCONTRACTING:

Subcontracting of the push cart vending service will not be allowed under the bid. Should the successful bidder require personal time off of the minimum times established in §2.3.1, his/her push cart must be operated by another individual of the vendors choosing, but not subcontracted to another push cart service.

Consistent “no-shows” as documented by the County for minimum services as established in §2.3.1 by a vendor shall cause the County to review the file and a determination made for default of contract with award to the next highest revenue bidder.

2.4 Exhibits 1 and 2 contain a site map indicating the spaces which will be allotted to the successful bidder. The four (4) sites highlighted are identified as:

Site #1 That space comprising the northeast corner of the Superior Court Complex, near the intersection of West Jefferson Street and South First Avenue.

Site #2 That space comprising southeast corner of the Superior Court Complex, at South First Avenue.

Site #3 That space comprising the southwest corner of the Superior Court Complex, at South Third Avenue.

Site #4 That space comprising the northwest corner of the Superior Court Complex, near the intersection of West Jefferson Street and South Third Avenue.

- 2.5 Each corner site comprises 168 square feet of “business space”. This to accommodate the vending cart, ice chest coolers, trash bins, table, chairs, etc. The section hash marked on the map (Exhibit 2) will be the only areas where the Contractor will be allowed the push cart vending business. The Contractor may utilize any one or all of the four sites at their discretion, providing they are the successful bidder. Subcontracting the spaces is allowable providing the subcontractor meets the requirements of this bid. If subcontracted, the primary contractor shall be responsible for ensuring all specifications are enforced as listed in this contract. All subcontractors names and copies of licenses must be provided to the County.

Contractor shall not obstruct the pedestrian flow of traffic or pedestrian seating.

- 2.6 Each site will be line item priced for monthly rent due to the variance of business traffic at each location.
- 2.7 Sidewalks outside the allotted spaces and surrounding the Courts complex campus must free of cart vending due to city ordinances. The City will enforce the ordinance providing the Contractor notifies the City of Phoenix, Licensing Services, 602-262-4638, of such violations.
- 2.8 Set-up and break-down times of the vending carts shall be at the discretion of the Contractor.
- 2.9 The following site requirements are minimum standards:
- (A) Maximum one table and four chairs. Table surface not to exceed 576 square inches.
 - (B) One trash receptacle with plastic liner per site, to be emptied daily.
 - (C) At the close of business each day, pick-up all debris generated by the concession. Sweep to remove dirt and course debris. The site must be free of stains, deposits, spills, etc.
 - (D) Nothing is to remain at the site after Contractor vacates premises.
- 2.10 Bidders must submit a written plan of action on how they will enforce city regulations and report cart violators for this complex.
- 2.11 The Contractor shall conduct his/her operation of a cart vending business in such a manner that does not damage County property. In the event damage occurs to Maricopa County property or any adjacent property by reason of any service operations performed under this contract, the Contractor shall replace or repair the same at no cost to the County. If damage caused by the Contractor has to be repaired or replaced by the County, the cost of such work shall be deducted from the monies due the Contractor
- 2.12 Payment To The County:

For providing the Contractor proprietary space, the Contractor must remit payment to the County either with certified check or cashiers check, made payable to Maricopa County . The check must be received by Facilities Management Department no later than the last business day of each month. Payments must be submitted to:

Maricopa County
Facilities Management Department
401 W. Jefferson St.
Phoenix, AZ 85003

A receipt for payment will be provided the Contractor.

- 2.13 Delinquent Payment:

The Contractor’s payment must be received by the County the last business day of the month. After five (5) calendar days have elapsed from this date, the rent payment will be considered delinquent. A late payment fee equaling 5% of the rent amount will be imposed and must be paid in additional to the rent rate.

3.0 **SPECIAL TERMS & CONDITIONS:**

3.1 CONTRACT LENGTH:

This Invitation For Bids is for awarding a firm, fixed price purchasing contract to cover a TWO (2) year period.

3.2 OPTION TO EXTEND:

The County may, at their option and with the approval of the Contractor, extend the period of this Contract up to a maximum of ONE (1), THREE (3) year options. The Contractor shall be notified in writing by the Materials Management Department of the County's intention to extend the contract period at least thirty (30) calendar days prior to the expiration of the original contract period.

3.3 INDEMNIFICATION AND INSURANCE

3.3.1 INDEMNIFICATION

To the fullest extent permitted by law, the **CONTRACTOR** shall defend, indemnify, and hold harmless the **COUNTY**, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the acts, errors, omissions or mistakes relating to the performance of this Contract. **CONTRACTOR'S** duty to defend, indemnify and hold harmless the **COUNTY**, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property, including loss of use resulting therefrom, caused by any acts, errors, omissions or mistakes in the performance of this Contract including any person for whose acts, errors, omissions or mistakes, the **CONTRACTOR** may be legally liable.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

Abrogation of Arizona Revised Statutes Section 34-226:

In the event that A.R.S. § 34-226 shall be repealed or held unconstitutional or otherwise invalid by a court of competent jurisdiction, then to the fullest extent permitted by law, the **CONTRACTOR** shall defend, indemnify and hold harmless the **COUNTY**, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or resulting from **CONTRACTOR'S** work or services. **CONTRACTOR'S** duty to defend, indemnify and hold harmless, the **COUNTY**, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, injury to, impairment or destruction of property including loss of use resulting therefrom, caused in whole or in part by any act or omission of the **CONTRACTOR**, anyone **CONTRACTOR** directly or indirectly employs or anyone for whose acts **CONTRACTOR** may be liable, regardless of whether it is caused in part by a party indemnified hereunder, including the **COUNTY**.

The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this paragraph.

The scope of this indemnification does not extend to the sole negligence of the **COUNTY**.

3.4 INSURANCE REQUIREMENTS

CONTRACTOR, at **CONTRACTOR'S** own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly licensed, possessing a current A.M. Best, Inc. Rating of B++6, or approved unlicensed companies in the State of Arizona with policies and forms satisfactory to the **COUNTY**.

All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of the **COUNTY**, constitute a material breach of this Contract.

The **CONTRACTOR'S** insurance shall be primary insurance as respects the **COUNTY**, and any insurance or self-insurance maintained by the **COUNTY** shall not contribute to it.

Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect coverage afforded under the insurance policies to protect the **COUNTY**.

The insurance policies may provide coverage which contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to the **COUNTY** under such policies. The **CONTRACTOR** shall be solely responsible for the deductible and/or self-insured retention and the **COUNTY**, at its option, may require the **CONTRACTOR** to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

The **COUNTY** reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. The **COUNTY** shall not be obligated, however, to review such policies and/or endorsements or to advise **CONTRACTOR** of any deficiencies in such policies and endorsements, and such receipt shall not relieve **CONTRACTOR** from, or be deemed a waiver of the **COUNTY'S** right to insist on strict fulfillment of **CONTRACTOR'S** obligations under this Contract.

The insurance policies required by this Contract, except Workers' Compensation, shall name the **COUNTY**, its agents, representatives, officers, directors, officials and employees as Additional Insureds.

The policies required hereunder, except Workers' Compensation, shall contain a waiver of transfer of rights of recovery (subrogation) against the **COUNTY**, its agents, representatives, officers, directors, officials and employees for any claims arising out of **CONTRACTOR'S** work or service.

3.4.1 Commercial General Liability. **CONTRACTOR** shall maintain Commercial General Liability insurance with a limit of not less than \$500,000 for each occurrence with a \$1,000,000 Products/Completed Operations Aggregate and a \$1,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of this Contract which coverage will be at least as broad as Insurance Service Office, Inc. Policy Form CG 00 01 10 93 or any replacements thereof.

The policy shall contain a severability of interest provision, and shall not contain a sunset provision or commutation clause, or any provision which would serve to limit third party action over claims.

The Commercial General Liability additional insured endorsement shall be at least as broad as the Insurance Service Office, Inc.'s Additional Insured, Form CG 20 10 11 85, and shall include coverage for **CONTRACTOR'S** operations and products and completed operations.

If the **CONTRACTOR** subcontracts any part of the work, services or operations awarded to the **CONTRACTOR**, he shall purchase and maintain, at all times during prosecution of the work, services or operations under this Contract, an Owner's and Contractor's Protective Liability insurance policy for bodily injury and property damage, including death, which may arise in the prosecution of the **CONTRACTOR'S** work, service or operations under this Contract. Coverage shall be on an occurrence basis with a limit not less than \$1,000,000 per occurrence, and the policy shall be issued by the same insurance company that issues the **CONTRACTOR'S** Commercial General Liability insurance.

3.4.2 Automobile Liability. **CONTRACTOR** shall maintain Automobile Liability insurance with an individual single limit for bodily injury and property damage of no less than \$300,000, each occurrence, with respect to **CONTRACTOR'S** vehicles (whether owned, hired, non-owned), assigned to or used in the performance of this Contract.

3.4.3 Workers' Compensation. The **CONTRACTOR** shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of **CONTRACTOR'S** employees engaged in the performance of the work or services, as well as Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.

In case any work is subcontracted, the **CONTRACTOR** will require the Subcontractor to provide Workers' Compensation and Employer's Liability insurance to at least the same extent as required of the **CONTRACTOR**.

3.5 CERTIFICATES OF INSURANCE

Prior to commencing work or services under this Contract, **CONTRACTOR** shall furnish the **COUNTY** with Certificates of Insurance, or formal endorsements as required by the Contract, issued by **CONTRACTOR'S** insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this contract number and title.

In the event any insurance policy(ies) required by this contract is(are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the **CONTRACTOR'S** work or services and as evidenced by annual Certificates of Insurance.

If a policy does expire during the life of the Contract, a renewal certificate must be sent to the **COUNTY** fifteen (15) days prior to the expiration date.

3.6 CANCELLATION AND EXPIRATION NOTICE:

Insurance required herein shall not expire, be canceled, or materially changed without thirty (30) days prior written notice to the **COUNTY**.

3.7 USAGE REPORT:

The Contractor shall furnish the County a quarterly usage report delineating the acquisition activity governed by the Contract. The format of the report shall be approved by the County and shall disclose the quantity and dollar value of each contract item by individual unit.

3.8 INQUIRIES:

All inquiries concerning information contained herein shall be addressed to:

MARICOPA COUNTY
DEPARTMENT OF MATERIALS MANAGEMENT
ATTN: CONTRACT ADMINISTRATION
320 WEST LINCOLN
PHOENIX AZ 85003

Administrative telephone inquiries shall be addressed to:

STEVE DAHLE, SENIOR PROCUREMENT SPECIALIST – (602) 506-3450

Technical Telephone inquiries shall be addressed to:

STEVE VARASACK (602) 506-8198

Inquiries may be submitted by telephone but must be followed up in writing. No oral communication is binding on Maricopa County.

3.9 PRE-BID CONFERENCE:

THERE WILL BE A MANDATORY PRE-BID CONFERENCE ON JULY 12, 2000 AT 9:00AM AT THE MARICOPA COUNTY FACILITIES MANAGEMENT DEPARTMENT, 401 W. JEFFERSON ST., PHOENIX, AZ 85003

4.0 **CONTRACT TERMS AND CONDITIONS:**

4.1 LANGUAGE FOR REQUIREMENTS CONTRACTS:

Contractors signify their understanding and agreement by signing this document, that the Contract resulting from this bid will be a requirements contract. However, this Contract does not guarantee that any purchases will be made.

It only indicates that if purchases are made for the services contained in this Contract, that they will be purchased from the Contractor awarded that item. Orders will only be placed when a need is identified by a Using Agency or Department and proper authorization and documentation have been approved.

4.2 UNCONDITIONAL TERMINATION FOR CONVENIENCE:

Maricopa County may terminate the resultant Contract for convenience by providing sixty (60) calendar days advance notice to the Contractor.

4.3 TERMINATION FOR DEFAULT:

If the Contractor fails to meet deadlines, or fails to provide the agreed upon service/material altogether, a termination for default will be issued. The termination for default will be issued only after it is deemed by the County, that the Contractor has failed to remedy the problem after being forewarned.

4.4 TERMINATION BY THE COUNTY:

If the Contractor should be adjudged bankrupt or should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, the County may terminate this Contract. If the Contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to provide enough properly skilled workers or proper materials, or persistently disregard laws and ordinances, or not proceed with work or otherwise be guilty of, a substantial violation of any provision of this Contract, then the County may terminate this Contract. Prior to termination of this Contract, the County shall give the Contractor fifteen (15) calendar days written notice. Upon receipt of such termination notice, the Contractor shall be allowed fifteen (15) calendar days to cure such deficiencies.

4.5 ORGANIZATION - EMPLOYMENT DISCLAIMER:

The Contract is not intended to constitute, create, give rise to or otherwise recognize a joint venture contract or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties shall be only those expressly set forth in the Contract.

The parties agree that no persons supplied by the Contractor(s) in the performance of obligations under the contract are considered to be County employees, and that no rights of County civil service, retirement or personnel rules accrue to such persons. The Contractor(s) shall have total responsibility for all salaries, wages, bonuses, retirement withholdings, workmen's compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons, and shall save and hold the County harmless with respect thereto.

4.6 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:

Notice is given that pursuant to A.R.S. § 38-511 the County may cancel this Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S. § 38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the contract.

4.7 SUBCONTRACTING:

The Contractor may not assign this Contract or Subcontract to another party for performance of the terms and conditions hereof without the written consent of the County. All correspondence authorizing subcontracting must reference the Bid Serial Number and identify the job project.

4.8 AMENDMENTS:

All amendments to this Contract must be in writing and signed by both parties.

4.9 CONFORMATION WITH THE LAW:

This service shall be accomplished in conformity with the laws, ordinances, rules, regulations and zoning restrictions of the United States of America, the State of Arizona, County of Maricopa, and the City of Phoenix.

4.10 CONTRACT COMPLIANCE MONITORING:

The Materials Management Department and the using Agency (ies) shall monitor the Contractors compliance with, and performance under, the terms and conditions of the Contract. The Contractor shall make available for inspection and/or copying by the County all records and accounts relating to the work performed or the services provided in this Contract.

4.11 RETENTION OF RECORDS:

The Contractor agrees to retain all financial books, records, and other documents relevant to this Contract for five (5) years after final payment or until after the resolution of any audit questions which could be more than five (5) years, whichever is longer. The Department, Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of any and all said materials.

4.12 ADEQUACY OF RECORDS:

If the Contractor's books, records and other documents relevant to this Contract are not sufficient to support and document that allowable services were provided. The Contractor shall reimburse Maricopa County for the services not so adequately supported and documented.

4.13 AUDIT DISALLOWANCES:

If at any time it is determined by the Department that a cost for which payment has been made is a disallowed cost, the Department shall notify the Contractor in writing of the disallowance and the required course of action, which shall be at the option of the Department either to adjust any future claim submitted by the Contractor by the amount of the disallowance or to require repayment of the disallowed amount by the Contractor forthwith issuing a check payable to Maricopa County.

4.14 VALIDITY:

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

4.15 CONTRACTOR RESPONSIBILITY:

The Contractor will be responsible for any damages whatsoever to County property as applicable when such property is the responsibility or in the custody of the Contractor, his employees or Subcontractors.

4.16 RIGHTS IN DATA:

The County shall have the use of data and reports resulting from this Contract without additional cost or other restriction except as may be established by law or applicable regulation. Each party shall supply to the other party, upon request, any available information that is relevant to this Contract and to the performance hereunder.

4.17 SECURITY AND PRIVACY:

The Contractor agrees that none of its officers or employees shall use or reveal any research or statistical information furnished by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained. Copies of such information shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings, unless ordered by a court of competent jurisdiction. The County shall be notified immediately upon receipt of any such order of court, pertaining to production of such information.

The Contractor shall incorporate the foregoing provisions of this paragraph in all of its authorized subcontracts.

DOUBLE H CATERING, 4800 OCOTILLO RD., STE 30, GLENDALE AZ 85301-3533

6.0 PRICING

Per specifications, site operation fee for push cart vending space at the Maricopa County Superior Court Complex:

6.1 Site #1, northeast corner of West Jefferson Street and South First Avenue: \$200.00 / rent per month

*6.1.1 Percent (%) of gross revenue Base minimum revenue 10% per month

*To be paid in addition to monthly minimum revenue.

Terms: _____ Revenue contract

Vendor Number: _____ G850298398 A

Federal Tax ID Number: _____ 353268498

Telephone Number: _____ (623) 435-8440

Fax Number: _____ (623) 435-1860

Company Contact (REP): _____ Perry or Norma Hatter

E-mail Address (REP): _____ pernorhat@uswest.net

Contract Period: _____ To cover the period ending NOVEMBER 30, 2002.

ED THE HOTDOGGER, 1312 E INDIAN SCHOOL RD., PHOENIX, AZ 85014

6.0 PRICING

S058102/B0700017

Per specifications, site operation fee for push cart vending space at the Maricopa County Superior Court Complex:

6.1	Site #1, northeast corner of West Jefferson Street and South First Avenue:	<u>\$ 510.00</u> / per month
6.2	Site #2, South First Avenue:	<u>\$30.00</u> / rent per month
*6.2.1	Percent (%) of gross revenue	Base minimum revenue <u>2.5</u> % per month
6.4	Site #4, northwest corner of West Jefferson Street and South Third Avenue:	<u>\$30.00</u> / rent per month
*6.4.1	Percent (%) of gross revenue	Base minimum revenue <u>2.5</u> % per month

* To be paid in addition to monthly minimum revenue.

Terms:	Revenue contract
Vendor Number:	860521651 A
Federal Tax ID Number:	86-0521651
Telephone Number:	(602) 265-2844
Fax Number:	(602) 265-3660
Company Contact (REP):	Ed or Mitza Haramina
Contract Period:	To cover the period ending NOVEMBER 30, 2002 2003 2005 .

THE GOLF CART, 4815 SOUTH ROBERTS RD, TEMPE, AZ 85282
4817 W TOPEKA DRIVE, GLENDALE, AZ, 85308

6.0 PRICING

S058102/B0700017

Per specifications, site operation fee for push cart vending space at the Maricopa County Superior Court Complex:

6.3 Site #3, South Third Avenue: \$200.00 / rent per month

*6.3.1 Percent (%) of gross revenue Base minimum revenue 10% per month

* To be paid in addition to monthly minimum revenue.

Terms: Revenue contract

Vendor Number: ~~526213031 A~~ **278403746 A**

Federal Tax ID Number: ~~52-6213031~~ **27-8403746**

Telephone Number: ~~(623) 580-8215~~ **480/839-2628**

Fax Number: **602/994-5604**

Company Contact (REP): ~~Randy Chapman~~ **Louie De Panicis**

E-mail Address (REP): ~~jdmiles@worldnet.att.net~~

Contract Period: To cover the period ending **NOVEMBER 30, 2002 2003 2005.**